

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

STEPHEN MARCUS LEVINE, M.D.)

Case No. 800-2018-045459

**Physician's and Surgeon's
Certificate No. G21183**

Respondent

DECISION

**The attached Stipulated Surrender of License and Order is hereby
adopted as the Decision and Order of the Medical Board of California,
Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on August 26, 2019

IT IS SO ORDERED August 19, 2019

MEDICAL BOARD OF CALIFORNIA

By: 
Kimberly Kirchmeyer
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CHRISTINA SEIN GOOT
Deputy Attorney General
4 State Bar No. 229094
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 269-6481
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 STEPHEN M. LEVINE, M.D.

14 12343 Erwin Street
North Hollywood, California 91606-4613

15 Physician's and Surgeon's Certificate G 21183,

16 Respondent.

Case No. 800-2018-045459

OAH No. 2019040397

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Christina Sein
24 Goot, Deputy Attorney General.

25 2. Stephen M. Levine, M.D. (Respondent) is represented in this proceeding by attorney
26 Michael G. Raab, whose address is: 601 West Fifth Street, 8th Floor, Los Angeles, California
27 90071.

28 //

3. On August 19, 1971, the Board issued Physician's and Surgeon's Certificate No. G 21183 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-045459 and will expire on October 31, 2019, unless renewed.

JURISDICTION

4. Accusation No. 800-2018-045459 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 13, 2019. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2018-045459 is attached as Exhibit A and is incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2018-045459. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2018-045459, agrees that cause exists for discipline and hereby surrenders his Physician's and Surgeon's Certificate No. G 21183 for the Board's formal acceptance.

///

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED THAT Physician's and Surgeon's Certificate No. G 21183, issued to Respondent Stephen M. Levine, M.D., is surrendered and accepted by the Board.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a physician and surgeon in California as of the effective date of the Board's Decision and Order.

//

1 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
2 issued, his wall certificate on or before the effective date of the Decision and Order.

3 4. If Respondent ever files an application for licensure or a petition for reinstatement in
4 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
5 comply with all the laws, regulations and procedures for reinstatement of a revoked or
6 surrendered license in effect at the time the petition is filed, and all of the charges and allegations
7 contained in Accusation No. 800-2018-045459 shall be deemed to be true, correct and admitted
8 by Respondent when the Board determines whether to grant or deny the petition.

9 5. If Respondent should ever apply or reapply for a new license or certification, or
10 petition for reinstatement of a license, by any other health care licensing agency in the State of
11 California, all of the charges and allegations contained in Accusation No. 800-2018-045459 shall
12 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
13 Issues or any other proceeding seeking to deny or restrict licensure.

14 ACCEPTANCE

15 I have carefully read the above Stipulated Surrender of License and Order and have fully
16 discussed it with my attorney Michael G. Raab. I understand the stipulation and the effect it will
17 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of
18 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
19 Decision and Order of the Medical Board of California.

20
21 DATED: 8/1/2019

Stephen M. Levine MD

22 STEPHEN M. LEVINE, M.D.

Respondent

23 I have read and fully discussed with Respondent Stephen M. Levine, M.D. the terms and
24 conditions and other matters contained in this Stipulated Surrender of License and Order. I
25 approve its form and content.

26 DATED: 8/1/19

Michael G. Raab

27 MICHAEL G. RAAB

Attorney for Respondent


ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 8/1/17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General


CHRISTINA SEIN GOOT
Deputy Attorney General
Attorneys for Complainant

LA2018502925
53594201.docx

Exhibit A

Accusation No. 800-2018-045459

1 XAVIER BECERRA
2 Attorney General of California
3 JUDITH T. ALVARADO
4 Supervising Deputy Attorney General
5 CHRISTINA SEIN GOOT
6 Deputy Attorney General
7 State Bar No. 229094
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6481
Facsimile: (213) 897-9395
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO FEBRUARY 13, 2019
BY: *[Signature]* ANALYST

8
9 BEFORE THE
10 MEDICAL BOARD OF CALIFORNIA
11 DEPARTMENT OF CONSUMER AFFAIRS
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2018-045459

14 Stephen M. Levine, M.D.
15 12343 Erwin Street
North Hollywood, CA 91606-4613

ACCUSATION

16 Physician's and Surgeon's Certificate
17 No. G 21183,

Respondent.

18
19
20 Complainant alleges:

21 PARTIES

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer
24 Affairs (Board).

25 2. On or about August 19, 1971, the Medical Board issued Physician's and Surgeon's
26 Certificate Number G 21183 to Stephen M. Levine, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on October 31, 2019, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states in pertinent part:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"....

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"..."

6. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"(b) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician

1 and surgeon.

2 “(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours
3 after the conviction, transmit a certified copy of the record of conviction to the board. The
4 division may inquire into the circumstances surrounding the commission of a crime in order to fix
5 the degree of discipline or to determine if the conviction is of an offense substantially related to
6 the qualifications, functions, or duties of a physician and surgeon.

7 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
8 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
9 shall be conclusive evidence of the fact that the conviction occurred.”

10 7. Section 2262 of the Code states:

11 “Altering or modifying the medical record of any person, with fraudulent intent, or creating
12 any false medical record, with fraudulent intent, constitutes unprofessional conduct.”

13 “In addition to any other disciplinary action, the Division of Medical Quality or the
14 California Board of Podiatric Medicine may impose a civil penalty of five hundred dollars (\$500)
15 for a violation of this section.”

16 8. Section 810 of the Code states in pertinent part:

17 “(a) It shall constitute unprofessional conduct and grounds for disciplinary action,
18 including suspension or revocation of a license or certificate, for a health care professional to do
19 any of the following in connection with his or her professional activities:

20 “(1) Knowingly present or cause to be presented any false or fraudulent claim for the
21 payment of a loss under a contract of insurance.

22 “(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use
23 the same, or to allow it to be presented or used in support of any false or fraudulent claim.

24 A(b) It shall constitute cause for revocation or suspension of a license or certificate for a
25 health care professional to engage in any conduct prohibited under Section 1871.4 of the
26 Insurance Code or Section 549 or 550 of the Penal Code.”

27 9. Section 550 of the Penal Code states in pertinent part:

28 “(a) It is unlawful to do any of the following, or to aid, abet, solicit, or conspire with any

1 person to do any of the following:

2 "....

3 "(5) Knowingly prepare, make, or subscribe any writing, with the intent to present or
4 use it, or to allow it to be presented, in support of any false or fraudulent claim.

5 "(6) Knowingly make or cause to be made any false or fraudulent claim for payment
6 of a health care benefit.

7 "(b) It is unlawful to do, or to knowingly assist or conspire with any person to do, any of
8 the following:

9 "(1) Present or cause to be presented any written or oral statement as part of, or in
10 support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy,
11 knowing that the statement contains any false or misleading information concerning any material
12 fact.

13 "(2) Prepare or make any written or oral statement that is intended to be presented to
14 any insurer or any insurance claimant in connection with, or in support of or opposition to, any
15 claim or payment or other benefit pursuant to an insurance policy, knowing that the statement
16 contains any false or misleading information concerning any material fact.

17 "..."

18 10. California Code of Regulations, title 16, section 1360, states:

19 "For the purposes of denial, suspension or revocation of a license, certificate or permit
20 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
21 considered to be substantially related to the qualifications, functions or duties of a person holding
22 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
23 evidences present or potential unfitness of a person holding a license, certificate or permit to
24 perform the functions authorized by the license, certificate or permit in a manner consistent with
25 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
26 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
27 violation of, or conspiring to violate any provision of the Medical Practice Act."

28 ///

1 11. Title 18, United States Code, section 1347 states:

2 "(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or
3 artifice—

4 "(1) to defraud any health care benefit program; or

5 "(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any
6 of the money or property owned by, or under the custody or control of, any health care benefit
7 program,

8 "in connection with the delivery of or payment for health care benefits, items, or services,
9 shall be fined under this title or imprisoned not more than 10 years, or both. If the violation
10 results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined
11 under this title or imprisoned not more than 20 years, or both; and if the violation results in death,
12 such person shall be fined under this title, or imprisoned for any term of years or for life, or both.

13 "(b) With respect to violations of this section, a person need not have actual knowledge of
14 this section or specific intent to commit a violation of this section."

15 12. Title 18, United States Code, section 1349 states:

16 "Any person who attempts or conspires to commit any offense under this chapter shall be
17 subject to the same penalties as those prescribed for the offense, the commission of which was the
18 object of the attempt or conspiracy."

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of a**
21 **Physician and Surgeon)**

22 13. Respondent's license is subject to disciplinary action under section 2236 of the Code,
23 in that he pled guilty to conspiracy to commit health care fraud in violation of Title 18, United
24 States Code, section 1349 [conspiracy], substantially related to the qualifications, functions, or
25 duties of a physician and surgeon. The circumstances are as follows:

26 14. The Medicare Program ("Medicare") is a federal health care benefit program, as
27 defined by Title 18, United States Code, section 24(b). Respondent was a physician, licensed in
28 the state of California. Respondent was also a Medicare provider, and a significant part of his

1 practice consisted of evaluating or otherwise providing services to Medicare beneficiaries,
2 including for home health care services.

3 15. Respondent knew that Medicare paid for home health care services only if a Medicare
4 beneficiary was certified by a physician as homebound and in need of home health services,
5 including but not limited to skilled nursing, physical therapy, or occupational therapy. As a
6 referring and certifying physician, Respondent knew that the home health agencies would bill and
7 be paid by Medicare for providing home health services to the beneficiaries. As a licensed
8 physician who referred and certified Medicare beneficiaries for home health care and as a
9 Medicare provider, Respondent held a position of trust vis-a-vis the Medicare program.

10 16. Beginning in or around August 2013, and continuing through at least in or around
11 June 2016, in Los Angeles County, and elsewhere, Respondent knowingly combined, conspired,
12 and agreed with others to commit health care fraud, in violation of Title 18, United States Code,
13 section 1347.

14 17. In furtherance of the conspiracy, and to accomplish its object, Respondent's co-
15 conspirator introduced him to individuals who controlled various home health agencies in
16 California. The co-conspirators at these home health agencies then provided Respondent with
17 beneficiary information for the purpose of Respondent referring those same beneficiaries to those
18 home health agencies for purported home health care. In exchange for referring those
19 beneficiaries, Respondent was paid kickbacks in the form of cash payments from his co-
20 conspirators at the various home health agencies, including but not limited to, from a home health
21 agency known as Care For All Health Services, Inc. These kickback payments were made either
22 directly to Respondent or through his co-conspirator. In addition, Respondent signed medical
23 records, including home health care certifications, which falsely qualified the beneficiaries as
24 homebound and in need of home health services, regardless of beneficiaries' actual conditions.
25 Respondent knew that his co-conspirators at the various home health agencies used Respondent's
26 fraudulent referrals and the fraudulent medical records signed by Respondent to support false
27 claims to Medicare for home health services that were not medically necessary and/or where the
28 referrals were obtained through the payment of illegal kickbacks.

1 18. Between in or around August 2013 and June 2016, Medicare paid at least \$6,587,526
2 in false and fraudulent claims submitted by Respondent's co-conspirators at the various home
3 health agencies based on Respondent's fraudulent referrals and certifications.

4 19. Respondent committed all of the above acts knowingly and willfully, and with the
5 intent to defraud.

6 20. On or about March 9, 2017, in the case entitled *United States of America v. Stephen*
7 *M. Levine, M.D.*, United States District Court, Central District of California, Case No. 2:17-cr-
8 00126-ODW, Respondent was charged with a felony for violation of Title 18, United States
9 Code, section 1349 [conspiracy to commit health care fraud in violation of Title 18 United States
10 Code, section 1347].

11 21. On or about March 9, 2017, in the case entitled *United States of America v. Stephen*
12 *M. Levine, M.D.*, United States District Court, Central District of California, Case No. 2:17-cr-
13 00126-ODW, a Plea Agreement was filed wherein Respondent pled guilty to conspiracy to
14 commit health care fraud in violation of Title 18, United States Code, section 1349. Respondent
15 admitted he was, in fact, guilty of the offense, including the facts set forth in Paragraphs 14
16 through 19, above.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Insurance Fraud)**

19 22. Respondent's license is subject to disciplinary action under section 810 of the Code,
20 section 550 of the Penal Code, and 18 U.S.C. section 1347, in that he knowingly committed fraud
21 against Medicare, as more particularly alleged in Paragraphs 14 through 21, above, which are
22 hereby incorporated by reference and realleged as if fully set forth herein.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Alteration of Medical Records)**

25 23. Respondent's license is subject to disciplinary action under section 2262 of the Code,
26 in that he created false medical records with fraudulent intent, as more particularly alleged in
27 Paragraphs 14 through 21, above, which are hereby incorporated by reference and realleged as if
28 fully set forth herein.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty or Corruption)**

3 24. Respondent's license is subject to disciplinary action under section 2234, subdivision
4 (e), of the Code, in that he participated in a conspiracy to defraud Medicare, as more particularly
5 alleged in Paragraphs 14 through 21, above, which are hereby incorporated by reference and
6 realleged as if fully set forth herein.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Violation of the State Medical Practice Act)**

9 25. Respondent's license is subject to disciplinary action under section 2234, subdivision
10 (a), of the Code, and California Code of Regulations, title 16, section 1360, in that he violated a
11 provision or provisions of the Medical Practice Act, as more particularly alleged in Paragraphs 14
12 through 21, above, which are hereby incorporated by reference and realleged as if fully set forth
13 herein.

14 **DISCIPLINARY CONSIDERATIONS**

15 26. To determine the degree of discipline, if any, to be imposed on Respondent,
16 Complainant alleges that on or about July 22, 1987, in a prior disciplinary action entitled *In the*
17 *Matter of the Accusation Against: Stephen M. Levine, M.D.*, before the Medical Board of
18 California, Case No. D-3510, Respondent's license was placed on probation for five years and
19 suspended from the practice of medicine for six months. Respondent was prohibited from
20 prescribing Schedule II controlled substances, and required to take prescribing practices courses
21 and an oral clinical examination. Respondent's license was disciplined based on his plea of guilty
22 to involuntary manslaughter and five counts of giving a false name and address in connection
23 with the prescribing of a controlled substance. That decision is now final and is incorporated by
24 reference as if fully set forth herein.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Medical Board of California issue a decision:

- 28 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 21183,

1 issued to Stephen M. Levine, M.D.;

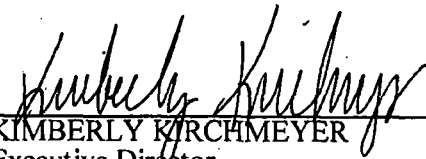
2 2. Revoking, suspending or denying approval of Stephen M. Levine, M.D.'s authority to
3 supervise physician assistants and advanced practice nurses;

4 3. Ordering Stephen M. Levine, M.D., if placed on probation, to pay the Board the costs
5 of probation monitoring; and

6 4. Taking such other and further action as deemed necessary and proper.

7
8 DATED:

9 February 13, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

10
11
12
13
14 LA2018502925
53205218.docx